REMARKS

Applicant respectfully request further examination and reconsideration in view of the amendments herein and the remarks set forth below. Claims 1-33 remain pending. Claims 1-33 are rejected. Claims 1, 12 and 23 are amended herein. No new matter has been added as a result of these amendments. Support for the claim amendments can be found at least on page 11, third paragraph and page 14, second paragraph of Applicant's specification.

35 U.S.C. §101 Rejections

Claims 12-22

The Office Action mailed August 10, 2010 (hereinafter, "instant Office Action"), introduces a new ground of rejection and states that Claims 12-22 are rejected under 35 U.S.C. §101. In particular, it is asserted in the instant Office Action the following:

> In this instance, Claim 12 recites [a] computer useable medium which can be broadly and reasonably interpreted to cover both non-statutory and statutory subject matter. Since the dependent claims 13-22 incorporate the above deficiency, they are also rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

(Instant Office Action, page 4, section 2.) Applicant respectfully submits that amended Claims 12-22 are directed to patentable subject matter. Applicant respectfully notes that amended independent Claim 12 recites the following features (emphasis added):

> A computer non-transitory readable storage medium having computer useable code embodied therein causing a computer to perform operations comprising:
>
> receiving a request for content from a first network connected component;
>
> determining a type of media service needed to be performed by a third network connected component on at least a portion of said content to fulfill said request, wherein said type of media service comprises format conversion services;

configuring a data relaying component to forward said at least a portion of said content from a second network connected component to said third network connected component, said at least a portion of said content to receive said type of media service performed by said third network connected component, and configuring said data relaying component to forward packets of said content that do not need said type of media service to be performed thereon directly to said first network connected component; and

after said data relaying component forwards said at least a portion of said content from said second network connected component to said third network connected component, undoing said configuring.

Applicant respectfully submits that Claim 12 recites a "computer non-transitory readable storage medium" (emphasis added), thereby being directed towards statutory subject matter. Therefore, Applicant respectfully submits that Claims 12-22 traverse the 35 U.S.C. §101 rejections of the instant Office Action.

35 U.S.C. §102(b) Rejections

Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33

The instant Office Action states that Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are rejected under 35 U.S.C. §102(b) as being anticipated by Signes. (U.S. Patent Publication No. 2002/0156842) (hereinafter, "Signes). Applicant has carefully considered the rejections and comments set forth in the instant Office Action. Applicant respectfully submits that Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are not anticipated by Signes in view of at least the instant response.

Applicant respectfully points out that amended Claim 1 recites (Claims 12 and 23 include similar features):

A method for dynamically configuring a network component to reroute media streams, comprising:

receiving a request for content from a first network connected component;

determining a type of media service needed to be performed by a third network connected component on at least a portion of said content to fulfill said

request, wherein said type of media service comprises format conversion services;

configuring a data relaying component to forward said at least a portion of said content from a second network connected component to said third network connected component, said at least a portion of said content to receive said type of media service performed by said third network connected component,

configuring said data relaying component to forward packets of said content that do not need said type of media service to be performed thereon directly to said first network connected component; and

after said data relaying component forwards said at least a portion of said content from said second network connected component to said third network connected component, undoing said configuring.

(Emphasis added.)

According to the Federal Circuit, "anticipation requires the disclosure in a single prior art reference of each claim under consideration". W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983)

MPEP §2131 provides:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". MPEP §2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 103 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "The elements must be arranged as required by the claim..." *In re Bond*, 910 F.2d 831, 15 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The instant Office Action states that Signes discloses the features of Applicant's Claim 1. Applicant respectfully submits that Signes does not anticipate the features of Claim 1.

Applicant understands Signes to disclose a "system for audio-visual media customization according to receiver attributes" (Signes, Title) in which a "rule engine

looks to the content database 134 to determine a particular media content that is responsive to the request" (Signes, paragraph [0040]). This "media content" is linked to the attributes of the intended receiver (Signes, paragraph [0039].) such as "local advertising based upon geographical location of the end user" (Signes, paragraph [0041]) and "advertising tailored to a end users' interests, age, gender, language or profession" (Signes,. paragraph [0042]). The "media content" is "customized information" (emphasis added; Signes, paragraph [0024]), not a media service. Signes' server 120 contains the personalized content that may be obtained.

Significantly, Applicant respectfully submits that Signes remains silent as to,"wherein said type of media service comprises format conversion", "configuring said data relaying component to forward packets of said content that do not need said type of media service to be performed thereon directly to said first network connected component", and "after said data relaying component forwards said at least a portion of said content from said second network connected component to said third network connected component, undoing said configuring" as is recited in Applicant's amended Claim 1.

Furthermore, Applicant respectfully submits that Signes remains silent as to "determining a type of media service needed for at least a portion of said content to fulfill said request" (Applicant's Claim 1) in order to overcome a situation in which a content server "can only provide [content] in an [*sic*] a format (e.g. audio) that the client device 501 is not equipped to accommodate" (Applicant's specification, page 12, lines 4-10). Thus, as Signes remains silent as to "determining a type of media service needed" (emphasis added), Applicant respectfully asserts that Signes also remains silent as to:

> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component

In furtherance of this assertion, Applicant respectfully disagrees with the instant Office Action's analysis of the "equivalent" features of Signes and Applicant's Claim 1 (instant Office Action, page 3-4). Applicant respectfully directs the discussion to page 9, lines 19-27 (emphasis added) of Applicant's specification, which provides:

> According to one embodiment, the RTSP server 503 is supplied with information that enables it to cause a redirection of packets that are initially slated to be transmitted directly from a first point on the network to a second point on the network (e.g., a content server to a client device) to a third point on the network (e.g., media service provider). It should be appreciated that upon receiving a session initiation request from a client device (e.g., 501), the RTSP server 503 can configure a network switch to redirect designated packets to appropriate service locations.
>
> Furthermore,
>
> [m]edia service 507 is a network connected component that can perform designated services on streaming media content. The services that can be provided can include but are not limited to format conversion services such as display size, bit rate, compression standard for video, sampling rate, quality, and compression standard for audio.

(Emphasis added; Applicant 's specification, page 10, lines 1-5). As such, "media service" is defined as a component, in one embodiment, that provides format conversion services. The content is redirected to a media service 507 "when a request is made from a client device 501 to a content server 505 for content that the content server 505 can only provide in an [*sic*] a format (e.g., audio) that the client device 501 is not equipped to accommodate" (emphasis added; Applicant's specification, page 11, lines 3-9 and Figure 5).

Thus, according to Applicant 's specification and Applicant's Claim 1, Applicant's "first network connected component" is the client 501. The "second network component" is content server 505. The "third network component" is the media service 507. The RTSP server 503 redirects the packets that were initially slated to be transmitted directly from the content server 505 (second network component) to client device 501 (first network component), to be transmitted to the media service 507 (third network component). The media service 507 performs a conversion service on the content, which converted content then is sent to client device 501.

In contradiction to Applicant's Claim 1 and as stated in the instant Office Action on pages 3-4, Signes' second network component is the media server 130 and its third network component is the streaming server 120. Furthermore, while not stated in the instant Office Action, based on the assignations given regarding the network components, Signes' first network component is the terminal 150 of end user 155. It is Signes' media server 130 that directs a request to a specific streaming server 120 according to a placeholder 116's (the placeholder 116 is within the content that accompanies the request from the end user 155) indications.

In contrast, it is Applicant's RTSP server 503, which is not defined as a first, second or third component and is thus not equivalent to Signes' media server 130 (second network component) in Applicant's Claim 1, that configures a data relaying component 511 to redirect content to its third network component, media server 507 for conversion services that provide content in a format that client 501 (first network component) is equipped to handle.

Applicant's media service 507 actually performs conversion services of the media and is the last stop before the converted content is sent to the client device 501. Signes' "media service" 130 merely directs a request for content to a server, which server (Signes' server 120) sends the requested content to end user 155 at terminal 150, regardless of the end user's 155 terminal's 150 ability to handle the format.

Furthermore, Applicant's network data relaying component (e.g., switch, router, computer, etc.) 511 "is a network connected component that can be programmed to 'redirect' packets" (emphasis added, Applicant's specification, page 10, lines 7-8) and is separate from Applicant's RTSP server 503 (Applicant's Figure 5). In contrast, Signes' dispatcher 132 directs a request from the terminal 150 (end user 155) to a server 120 and is part of Signes' media server 130.

Applicant's "determining a type of media service" and redirecting content to a media service 507 that performs the media service determined to be needed enables a client to obtain requested content in a format that the client is equipped to accommodate (Applicant's Claim 1 and specification, page 12, lines 7-13). In contrast, Signes focuses on providing "customized media" (Signes, paragraph [0047]) to the terminal 150 in response to a request in the form of the following:

[0041] local advertising based upon geographical location of the end user
[0042] advertising tailored to a end users' interests, age, gender, language or profession
[0043] branding or access to specific services related to the end-user subscription
[0044] updates on specific topics of interest to an end user such as sports scores
[0045] product updates relating to products owned by the end user
[0046] other information such as be of interest to the end user

(Signes, paragraphs [0041] to [0046].) Significantly, Signes does not provide content to streaming server 120 that is slated to undergo format conversion services at that streaming server 120 in order that a client may receive the content in a format the client is equipped to accommodate, without which conversion services being performed the client would not be able to accommodate the content received.

Therefore, Applicant respectfully submits that Signes does not anticipate:

> A method for dynamically configuring a network component to reroute media streams, comprising:
> receiving a request for content from a first network connected component;
> determining a type of media service needed to be performed by a third network connected component on at least a portion of said content to fulfill said request, wherein said type of media service comprises format conversion services;
> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to said third network connected component, said at least a portion of said content to receive said type of media service performed by said third network connected component,
> configuring said data relaying component to forward packets of said content that do not need said type of media service to be performed thereon directly to said first network connected component; and
> after said data relaying component forwards said at least a portion of said content from said second network connected component to said third network connected component, undoing said configuring.

(emphasis added) as is recited in Applicant's Claim 1.

Additionally, Applicant respectfully notes and asserts that as per the reasoning presented above, Applicant's Claim 8, "wherein said content is redirected to said third network connected component while en route to said first network connected component" (emphasis added) and Applicant's Claim 11, "wherein said [RTSP] server receives said request routed by said data relaying component, and supplies routing configuration instructions to said data relaying component to create or destroy a rule to

route selected streams to a media service" are allowable. Moreover, Applicant notes that the "server" described in Applicant's Claim 11 is the RTSP server 503 of Figure 5, and that Claim 11 should read, "wherein the received request routed by said data relaying component" as opposed to "wherein said server receives said request routed by said data relaying component" as it is the RTSP Server 503 that performs the "receiving", "determining" and "configuring" of Applicant's Claim 1.

Thus, Applicant respectfully submits that Signes does not anticipate the features as are set forth in independent Claim 1, and as such, Claim 1 traverses the rejection under 35 U.S.C. §102(b) and is condition for allowance. Accordingly, Applicant also respectfully submits that Claims 12 and 23 are in condition for allowance for the reasons stated herein with regards to Claim 1. Furthermore, Applicant respectfully asserts that Claims 2-6, 8 and 11 depending on Claim 1, Claims 13-17, 19 and 22 depending on Claim 12 and Claims 24-28, 30 and 33 depending on Claim 23 are allowable as being dependent on an allowable base claim.

Furthermore, Applicant respectfully asserts that Claims 8 and 11 are allowable independent of the determination of Claim 1's allowability.

35 U.S.C. §103(a) Rejections

Claims 7, 9, 10, 18, 20, 21, 29, 31 and 32

The instant Office Action rejects Claims 7, 9, 10, 18, 20, 21, 29, 31 and 32 under 35 U.S.C. §103(a) as being unpatentable over Signes in view of McCanne (U.S. Patent

Application No. 6,785,704). The rejections and comments set forth in the instant Office Action have been carefully considered by the Applicant. Applicant respectfully submits that Claims 7, 9-10, 18, 20-21, 29, 31 and 32 are patentable over Signes in view of McCanne for at least the following rationale.

Applicant respectfully submits that the combination of Signes and McCanne does not satisfy the requirements of a *prima facie* case of obviousness because the combination of Signes and McCanne as a whole do not suggest the features of Claim 1.

"As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in original; MPEP 2141.02(I)).

Applicant respectfully notes that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations. However, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141[III]).

Applicant respectfully submits that embodiments of Applicant's Claim 1 as a whole would not have been obvious, and therefore the instant Office Action does not satisfy the requirements for a rejection of Claim 1 under 35 U.S.C. §103(a). In particular, Applicant respectfully submits that the instant Office Action fails to explain the differences between Signes, McCanne, and Applicant's claimed features. Moreover, Applicant respectfully submits that the instant Office Action fails to explain why these differences would have been obvious to one of ordinary skill in the art.

Applicant respectfully submits that McCanne fails to overcome the deficiencies of Signes. In particular, Applicant respectfully submits that McCanne remains silent as to the features of Applicant's Claim 1. Applicant understands McCanne to disclose a "content distribution system for operation over an internetwork including content peering arrangements" (McCanne, Title) in which "a request for the content is sent from the client to a redirector node that receives requests, wherein a redirector at the redirector node provides an address for a server available to serve the requested content" (emphasis added; McCanne, Abstract). However, Applicant respectfully asserts that McCanne fails to disclose "determining a type of media service needed" as well as:

> wherein said type of media service comprises format conversion services;
> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to said third network connected component, said at least a portion of said content to receive said type of media service performed by said third network connected component,
> configuring said data relaying component to forward packets of said content that do not need said type of media service to be performed thereon directly to said first network connected component; and
> after said data relaying component forwards said at least a portion of said content from said second network connected component to said third network connected component, undoing said configuring.

as is recited in Applicant's Claim 1. Moreover, Applicant respectfully asserts that nothing in McCanne provides a motivation to modify Signes to arrive at the features of Applicant's Claim 1.

Additionally, Applicant respectfully submits that the instant Office Action fails to explain why the differences between Signes, McCanne, and Applicant's features of Claim 1 would have been obvious to one or ordinary skill in the art.

Thus, in view of the combination of Signes and McCanne not satisfying the requirements of a *prima facie* case of obviousness, Applicant respectfully asserts that Claim 1 is patentable over Signes in view of McCanne. Additionally, Applicant respectfully submits that Claims 12 and 23 are patentable for the reasons stated herein with regards to Claim 1. Moreover, Applicant respectfully submits that Claims 7, 9 and 10 depending on Claim 1, Claims 18, 20 and 21 depending on Claim 12 and Claims 29, 31 and 32 depending on Claim 23 are in condition for allowance as being dependent on an allowable base claim.

CONCLUSION

In light of the above listed remarks and amendments, Applicants respectfully request reconsideration and allowance of pending Claims 1-33.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Respectfully submitted,

WAGNER BLECHER LLP

Date: 10/12/2010

/John P. Wagner, Jr./

John P. Wagner, Jr.
Registration No.: 35,398

Wagner Blecher LLP
Westridge Business Park
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500